



Senate

File No. 881

General Assembly

January Session, 2007

(Reprint of File No. 760)

Substitute Senate Bill No. 977
As Amended by Senate Amendment Schedule
"A" and House Amendment Schedule "A"

Approved by the Legislative Commissioner
May 29, 2007

AN ACT CONCERNING RESTRAINTS AND SECLUSION IN PUBLIC SCHOOLS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46a-150 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 For purposes of this section and sections 46a-151 to 46a-154,
4 inclusive:

5 (1) "Provider of care, education or supervision of a person at risk"
6 and "provider" mean a person who provides direct care, education or
7 supervision of a person at risk.

8 (2) "Assistant provider of care, education or supervision of a person
9 at risk" and "assistant" mean a person assigned to provide, or who may
10 be called upon in an emergency to provide, assistance or security to a
11 provider of care, education or supervision of a person at risk.

12 (3) "Person at risk" means (A) a child requiring special education
13 described in subparagraph (A) of subdivision (5) of section 10-76a,

14 who is receiving special education by a local or regional board of
15 education, or a child being evaluated for eligibility for special
16 education pursuant to section 10-76d and awaiting a determination, or
17 (B) a person receiving care, education or supervision in an institution
18 or facility [(A)] (i) operated by, licensed or authorized to operate by or
19 operating pursuant to a contract with the Departments of Public
20 Health, Mental Retardation, Children and Families, Mental Health and
21 Addiction Services or a regional education service center established
22 under section 10-66a, or [(B)] (ii) operating under contract with a local
23 or regional board of education pursuant to subsection (d) of section 10-
24 76d. The term does not include [(i)] a person in the custody of the
25 Commissioner of Correction, or [(ii)] a resident or patient of a nursing
26 home subject to federal regulations concerning restraint of residents or
27 patients.

28 (4) "Life-threatening physical restraint" means any physical restraint
29 or hold of a person that restricts the flow of air into a person's lungs,
30 whether by chest compression or any other means.

31 (5) "Physical restraint" means any mechanical or personal restriction
32 that immobilizes or reduces the free movement of a person's arms, legs
33 or head. The term does not include: (A) Briefly holding a person in
34 order to calm or comfort the person; (B) restraint involving the
35 minimum contact necessary to safely escort a person from one area to
36 another; (C) medical devices, including, but not limited to, supports
37 prescribed by a health care provider to achieve proper body position
38 or balance; (D) helmets or other protective gear used to protect a
39 person from injuries due to a fall; or (E) helmets, mitts and similar
40 devices used to prevent self injury when the device is part of a
41 documented treatment plan or individualized education program
42 pursuant to section 10-76d and is the least restrictive means available
43 to prevent such self-injury.

44 (6) "Psychopharmacologic agent" means any medication that affects
45 the central nervous system, influencing thinking, emotion or behavior.

46 (7) "Seclusion" means the confinement of a person in a room,
47 whether alone or with staff supervision, in a manner that prevents the
48 person from leaving, except that in the case of seclusion at Long Lane
49 School, the term does not include the placing of a single child or youth
50 in a secure room for the purpose of sleeping.

51 Sec. 2. Subsection (b) of section 46a-152 of the general statutes is
52 repealed and the following is substituted in lieu thereof (*Effective*
53 *October 1, 2007*):

54 (b) No provider or assistant may involuntarily place a person at risk
55 in seclusion except (1) as an emergency intervention to prevent
56 immediate or imminent injury to the person or to others, provided the
57 seclusion is not used for discipline or convenience and is not used as a
58 substitute for a less restrictive alternative, or (2) as specifically
59 provided for in an [individual education plan] individualized
60 education program developed pursuant to section 10-76d. Each local
61 or regional board of education, institution or facility providing special
62 education for a child shall notify the parent or guardian of each
63 incident in which such child is placed in physical restraint or seclusion.

64 Sec. 3. Section 46a-153 of the general statutes is repealed and the
65 following is substituted in lieu thereof (*Effective October 1, 2007*):

66 Each local or regional board of education, institution or facility that
67 provides direct care, education or supervision of persons at risk shall
68 (1) record each instance of the use of physical restraint or seclusion on
69 a person at risk and the nature of the emergency that necessitated its
70 use, and (2) include such information in an annual compilation on its
71 use of such restraint and seclusion. The commissioner of the state
72 agency that has jurisdiction or supervisory control over [the] each
73 institution or facility shall review the annual compilation prior to
74 renewing a license for or a contract with such institution or facility.
75 The State Board of Education may review the annual compilation of
76 each local and regional board of education, institution and facility that
77 provides special education for children and may produce an annual

78 summary report identifying the frequency of use of physical restraint
79 or seclusion on such children. If the use of such restraint or seclusion
80 results in physical injury to the person, (A) the local or regional board
81 of education, institution or facility that provides special education for a
82 child may report the incident to the State Board of Education, and (B)
83 the institution or facility shall report the incident to the commissioner
84 of the state agency that has jurisdiction or supervisory control over the
85 institution or facility. The State Board of Education and the
86 commissioner receiving a report of such an incident shall report any
87 incidence of serious injury or death to the director of the Office of
88 Protection and Advocacy for Persons with Disabilities and, if
89 appropriate, to the Child Advocate of the Office of Child Advocate.

90 Sec. 4. Subsection (a) of section 10-76b of the general statutes is
91 repealed and the following is substituted in lieu thereof (*Effective*
92 *October 1, 2007*):

93 (a) The State Board of Education shall provide for the development
94 and supervision of the educational programs and services for children
95 requiring special education and may regulate curriculum, conditions
96 of instruction, including the use of physical restraint and seclusion
97 pursuant to chapter 814e, physical facilities and equipment, class
98 composition and size, admission of students, and the requirements
99 respecting necessary special services and instruction to be provided by
100 local and regional boards of education. The State Board of Education
101 shall adopt regulations, in accordance with the provisions of chapter
102 54, concerning the use of physical restraint and seclusion pursuant to
103 chapter 814e. The educational aspects of all programs and instructional
104 facilities in any day or residential child-caring agency or school which
105 provides training for children requiring special education and which
106 receives funding from the state under the provisions of sections 10-76a
107 to 10-76g, inclusive, shall be subject to the approval and supervision of
108 the commissioner in accordance with regulations adopted by the State
109 Board of Education concerning requirements for such programs and
110 accommodations.

111 Sec. 5. Subdivision (8) of subsection (a) of section 10-76d of the
112 general statutes is repealed and the following is substituted in lieu
113 thereof (*Effective October 1, 2007*):

114 (8) (A) Each local and regional board of education shall notify the
115 parent or guardian of a child who requires or who may require special
116 education, a pupil if such pupil is an emancipated minor or eighteen
117 years of age or older who requires or who may require special
118 education or a surrogate parent appointed pursuant to section 10-94g,
119 in writing, at least five school days before such board proposes to, or
120 refuses to, initiate or change the child's or pupil's identification,
121 evaluation or educational placement or the provision of a free
122 appropriate public education to the child or pupil. Such parent,
123 guardian, pupil or surrogate parent shall be given at least five school
124 days' prior notice of any planning and placement team meeting
125 conducted for such child or pupil and shall have the right to be present
126 at and participate in and to have advisors of such person's own
127 choosing and at such person's own expense to be present at and to
128 participate in all portions of such meeting at which an educational
129 program for such child or pupil is developed, reviewed or revised.
130 Immediately upon the formal identification of any child as a child
131 requiring special education and at each planning and placement team
132 meeting for such child, the responsible local or regional board of
133 education shall inform the parent or guardian of such child or
134 surrogate parent or, in the case of a pupil who is an emancipated
135 minor or eighteen years of age or older, the pupil of the laws relating
136 to special education and the rights of such parent, guardian, surrogate
137 parent or pupil under such laws and the regulations adopted by the
138 State Board of Education relating to special education. If such parent,
139 guardian, surrogate parent or pupil does not attend a planning and
140 placement team meeting, the responsible local or regional board of
141 education shall mail such information to such person. Each board shall
142 have in effect at the beginning of each school year an educational
143 program for each child who has been identified as eligible for special
144 education.

145 (B) At each initial planning and placement team meeting for a child,
146 the responsible local or regional board of education shall inform the
147 parent, guardian, surrogate parent or pupil of the laws relating to
148 physical restraint and seclusion pursuant to chapter 814e and the
149 rights of such parent, guardian, surrogate parent or pupil under such
150 laws and the regulations adopted by the State Board of Education
151 relating to physical restraint and seclusion.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2007</i>	46a-150
Sec. 2	<i>October 1, 2007</i>	46a-152(b)
Sec. 3	<i>October 1, 2007</i>	46a-153
Sec. 4	<i>October 1, 2007</i>	10-76b(a)
Sec. 5	<i>October 1, 2007</i>	10-76d(a)(8)

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Education, Dept.	GF - Cost	25,000	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
All Municipalities	STATE MANDATE - Cost	Minimal	Minimal

Explanation

This bill results in a cost to the State Department of Education due to additional reporting requirements placed upon them along with the requirement of developing regulations concerning the restraint and seclusion of special education students. The estimated cost is approximately \$25,000 in FY 08 due to the required regulations but significantly less in the subsequent years. Additionally the bill mandates that local and regional school districts report to parents on each incident of a child being restrained or secluded which could result in a minimal cost to the district depending on the method used to report such incidents.

Senate "A" resulted in a cost of \$50,000 to the State Department of Education by mandating some reporting requirements.

House "A" eliminated the cost of \$50,000 associated with Senate "A" by lessening the reporting requirements of Senate "A".

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 977 (as amended by Senate “A” and House “A”)******AN ACT CONCERNING RESTRAINTS AND SECLUSION IN PUBLIC SCHOOLS.*****SUMMARY:**

This bill regulates the use of physical restraints and seclusion on students receiving special education services in public schools, or for whom eligibility determinations are pending. It gives the State Board of Education (SBE) this authority as part of its existing mandate to regulate special education curriculum and instructional conditions. And it requires the SBE to adopt governing regulations.

Current law regulates the use of these techniques on people receiving direct care and educational services from regional educational service centers; private institutions and facilities that provide special education under contract with school boards; the departments of Children and Families, Mental Health and Addiction Services, Mental Retardation, and Public Health; and entities they license or supervise. It excludes nursing homes and Department of Correction facilities.

The bill requires local and regional boards of education to tell parents, guardians, and others standing in the place of parents about

1. the laws and regulations governing the use of physical restraints and seclusion and
2. related student and parental rights at the first planning and placement team meeting (PPT) involving the student’s individual educational program (IEP).

The bill also creates reporting procedures.

*Senate Amendment "A" requires (1) schools to notify parents when physical restraints have been used on their children, (2) makes incident reports and annual summaries mandatory rather than discretionary, and (3) eliminates a requirement that schools give parents copies of IEP at the beginning of each school year.

*House Amendment "A" restores provisions in the original bill that make SBE incident reporting and annual incident summaries permissive.

EFFECTIVE DATE: October 1, 2007

PHYSICAL RESTRAINTS AND SECLUSION

Physical Restraints

With some exceptions, the law defines "physical restraints" as any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs, or head. The bill excludes helmets, mitts, and similar devices used to prevent special education students from hurting themselves if their use is documented in their IEPs.

Seclusion

With some exceptions, the law defines "seclusion" as the confinement of a person in a room, whether alone or with staff supervision, in a manner that prevents the person from leaving. The law permits involuntary seclusion when it is used (1) in accordance with a student's IEP or (2) in an emergency to prevent immediate or imminent injury to the person or others, so long as it is the least restrictive alternative.

REPORTING REQUIREMENTS

Local and Regional School Boards

Current law requires institutions and facilities to report injuries caused by the use of restraints and seclusion (other than in nursing homes and DOC facilities) to the state agency that supervises or has

jurisdiction over them. Agencies, in turn, must review the reports when considering contract and license renewals. The bill extends these requirements to local and regional school boards and the State Department of Education. It allows the boards and institutions and facilities that provide special education to report these incidents to the SBE.

The bill also requires local and regional school boards, institutions, and facilities to notify a special education student's parent or guardian of each incident in which their child was placed in physical restraints or seclusion. The boards must also keep records and compile annual reports of each instance and the nature of the underlying emergency that necessitated their use.

State Board of Education

The bill requires the SBE to notify the child advocate and director of the Office of Protection and Advocacy for Persons with Disabilities when it receives a report involving a serious injury. The law authorizes these agencies to conduct investigations and issue written reports.

The bill also permits the SBE to (1) review schools', facilities', and institutions' annual reports on the use of physical restraints and seclusion and (2) issue yearly summaries indicating how often these techniques were used on special education students.

BACKGROUND

Special Education Law

State and federal laws require local and regional boards of education to identify students who need, or may be eligible for, special education services and to provide free, appropriate services in the least restrictive environment. They must hold PPTs to develop IEPs for each eligible child. They must also hold PPTs whenever they propose to modify or terminate a student's IEP.

Students, parents, guardians, and surrogate parents and their chosen representatives may attend and participate in each of these

meetings and challenge the appropriateness of the recommended services.

COMMITTEE ACTION

Select Committee on Children

Joint Favorable Change of Reference

Yea 10 Nay 0 (03/06/2007)

Education Committee

Joint Favorable Change of Reference

Yea 30 Nay 1 (03/26/2007)

Appropriations Committee

Joint Favorable Substitute

Yea 50 Nay 0 (04/17/2007)